

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

CLARENCE FOUST, individually and on)
behalf of all others similarly situated,)
v.)
Plaintiff,)
))
v.)
COMCAST CORPORATION,¹)
Defendant.)
)

CASE NO:

JURY DEMAND

PETITION FOR REMOVAL

Defendant Comcast Corporation (“Comcast”) hereby gives this Court notice of removal of the above-titled action now pending as Case No. 3-103-19 in the Circuit Court of Knox County, Tennessee. In support of this Notice of Removal, Comcast states as follows:

1. On March 25, 2019, Plaintiff Clarence Foust (“Foust”) filed an action against Comcast in the Circuit Court of Knox County, Tennessee, on behalf of himself and all others similarly situated, styled as *Clarence Foust v. Comcast Corporation*, No. 3-103-19 (the “State Court Action”).
2. Foust served Comcast with the summons, the complaint, and initial discovery requests in the State Court Action on April 15, 2019. A copy of the summons, complaint, and initial discovery requests served on Comcast in the State Court Action are attached to this Notice of Removal as Exhibit 2. No other process, pleadings, or orders have been served on Comcast in

¹ Comcast Corporation does not waive its argument that Comcast Cable Communications, LLC, is the proper defendant in this action. Comcast Corporation is a holding company, not an operating company, and is therefore not involved in the day-to-day management of its operating subsidiaries, including Comcast Cable Communications, LLC.

the State Court Action.

3. Comcast now removes the State Court Action to the United States District Court for the Eastern District of Tennessee at Knoxville, which embraces the Circuit Court of Knox County, Tennessee, where the State Court Action is pending. *See* 28 U.S.C. § 1441(a). A civil cover sheet is attached hereto as Exhibit 1.

4. Removal of the State Court Action to this Court is proper under 28 U.S.C. § 1441(a) and 28 U.S.C. § 1331 because the complaint asserts two causes of action under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*, a law of the United States over which this Court has original jurisdiction. *See Mims v. Arrow Fin. Services, LLC*, 565 U.S. 368, 386 (2012) (holding that district courts have federal question jurisdiction over TCPA claims).

5. This Petition for Removal is timely under 28 U.S.C. § 1446(b) because it is filed within thirty days after Comcast was served with a copy of the complaint, which was the initial pleading setting forth the claims for relief upon which the State Court Action is based.

6. Comcast will give prompt written notice of the filing of this Removal to counsel for Foust and will file a copy of the Petition for Removal with the Clerk of the Circuit Court of Knox County. *See* 28 U.S.C. § 1446(d). Attached as Exhibit 3 is the notice of removal filed contemporaneously with this Petition for Removal with the Clerk of the Circuit Court of Knox County.

Dated: May 13, 2019

Respectfully submitted,

Comcast Corporation

By: 
One of its attorneys

**MOORE INGRAM JOHNSON &
STEELE, LLP**
William R. Johnson
wrj@mijs.com
Austin Gillis
dagillis@mijs.com
408 N. Cedar Bluff Road, Suite 500
Knoxville, TN 37923
Tel: (770) 429-1499
Fax: (865) 692-9071

-and-

WINSTON & STRAWN LLP
Sean G. Wieber (*pro hac vice forthcoming*)
swieber@winston.com
35 W. Wacker Drive
Chicago, IL 60601
Tel: (312) 558-5600
Fax: (312) 558-5700

Counsel for Comcast Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of May, 2019, the foregoing NOTICE OF REMOVAL was delivered to all counsel for parties at interest in this cause by placing a true and correct copy of the same in the United States mail, postage prepaid, in a properly addressed envelope as follows, and by electronic mail, to the following:

Benjamin J. Miller
THE HIGGINS FIRM
525 4th Ave S
Nashville, TN 37210
ben@higginsfirm.com



William R. Johnson